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## **OLR BILL ANALYSIS**

### **sHB 5291**

#### ***AN ACT CONCERNING THE MINIMUM WAGE.***

#### **SUMMARY:**

This bill raises the minimum wage from its current \$8.25 to \$8.75 on January 1, 2013, and from \$8.75 to \$9.25 on January 1, 2014. Starting in 2015, it requires annual minimum wage adjustments based on increases in the Consumer Price Index for tri-state area urban wage earners and clerical workers (CPI), as calculated by the U.S. Bureau of Labor Statistics.

The bill adjusts the minimum wage “tip credit,” which allows employers to use the tips certain employees receive to satisfy a portion of their minimum wage requirement. Together with the changes to the minimum wage, the adjustments increase the employer’s share of the hotel and wait staff wage from its current \$5.69 to \$5.80 in 2013, and then keeps it at \$5.80 in 2014. The bill keeps the employer’s share of a bartender’s minimum wage at its current \$7.34 in 2013 and 2014.

The bill also increases the amount that employees or the labor commissioner may recover from employers who violate minimum and overtime wage laws.

EFFECTIVE DATE: January 1, 2013

#### **ANNUAL CPI BASED ADJUSTMENT**

By July 15, 2014, and every year thereafter, the bill requires the labor commissioner to announce an adjustment, if any, to the minimum wage based on the CPI’s percentage increase during the last complete calendar year. The amount of any corresponding wage increase is rounded to the nearest five cents and the new minimum wage is effective on January 1 of the next calendar year.

#### **TIP CREDIT**

The law allows the employers of hotel and restaurant staff and bartenders who customarily receive tips to use these employees' tips to meet a portion of their minimum wage requirement. This "tip credit" lowers the employer's share of the minimum wage, as long as the tips make up the difference. Current law allows tips to comprise 31% (\$2.56) of the minimum wage for hotel and restaurant employees, and 11% (\$0.91) of the minimum wage for bartenders, leaving their employers' shares of the wage at \$5.69 and \$7.34, respectively.

The bill increases the hotel and restaurant employees tip credit to 33.7% on January 1, 2013 and 37.3% on January 1, 2014. Together with the bill's minimum wage increases, the hotel and restaurant tip credit increases to \$2.95 in 2013 and \$3.45 in 2014, making the employer's share of the minimum wage for these employees \$5.80 in both years.

The bill increases the bartender tip credit to 16.1% on January 1, 2013, and 20.7% on January 1, 2014. With the bill's minimum wage increases, the bartenders tip credit increases to \$1.41 in 2013, and \$1.91 in 2014, keeping the employer's share of a bartender's minimum wage at its current \$7.34 for both years.

If the tip credit percentages remain the same after CPI indexing begins in 2015, their value would rise at the same rate as the overall minimum wage (i.e., if the minimum wage rose 5%, from \$9.25 to \$9.71, the employer's share of a bartender's minimum wage would increase 5%, from \$7.34 to \$7.70).

#### **UNPAID MINIMUM AND OVERTIME WAGE RECOVERY**

The bill increases the amount that (1) an employee may recover if he or she is not paid the full minimum or overtime wage and (2) the labor commissioner may recover on such an employee's behalf.

Current law allows an employee who is paid less than the required minimum or overtime wage to bring a civil suit to recover up to twice the amount of unpaid wages, plus costs and reasonable attorney's fees. The bill removes the court's discretion to determine a victorious employee's award by setting mandatory damages at three times the

amount owed by the employer plus interest on the unpaid wages, in addition to the costs and reasonable attorney's fees that the law already allows.

Alternatively, the law allows the labor commissioner to try to recover damages on the employee's behalf. Under current law, the commissioner may (1) collect the full amount of unpaid wages plus interest or (2) bring a legal action to recover up to twice the amount of unpaid wages, plus costs and reasonable attorney's fees. The bill instead allows the commissioner to (1) collect up to three times the amount of unpaid wages or (2) bring a legal action to recover up to three times the amount of unpaid wages plus interest, in addition to costs and reasonable attorney's fees that the law already allows. By law, the commissioner must distribute any wages or interest collected through these processes to the affected employee.

#### **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8      Nay 3      (03/15/2012)